

**BEFORE THE STATE BOARD OF REGISTRATION
FOR THE HEALING ARTS**

THE STATE BOARD OF REGISTRATION)
FOR THE HEALING ARTS)

Petitioner,)

v.)

TERRY GARDNER, D.O.)

Respondent.)

Case No. 2011-003655

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Missouri State Board of Registration for the Healing Arts in accordance with law and pursuant to notice, took up this matter at its regularly scheduled meeting on April 20, 2012. The Board's litigation counsel, Nancy Skinner, presented evidence on behalf of the Board. Earl Kraus, Chief Legal Counsel for the Division of Professional Registration, acted as the Board's legal advisor in these proceedings, in the Board's deliberations, and in the preparing of this order. Dr. Gardner appeared in person without legal counsel.

Evidence was adduced, exhibits were received, and argument was heard regarding whether Dr. Gardner's license as a physician should be revoked pursuant to § 334.103.1, RSMo. The Board took the matter under advisement to deliberate and determine an appropriate disposition. Being fully advised of the above, the Board now enters its findings of fact, conclusions of law and order revoking Dr. Gardner's license as a physician.

FINDINGS OF FACT

1. The Board is an agency of the State of Missouri created and established pursuant to § 334.120, RSMo, for the purpose of executing and enforcing the provisions of chapter 334, RSMo.
2. Respondent, Terry Gardner, D.O., is licensed by the Board as a physician, license number 2009015805, which was first issued on June 17, 2009. Licensee's license is current, and was current and active at all times relevant herein.
3. On or about October 12, 2011, Respondent pled guilty in the United States District Court for the District of Colorado, case number 10-cr-00256-WYD-02, to one felony count of Conspiracy to Commit Health Care Fraud and Making False Statements in Relation to Health Care Matters, case number 1016-CR05690-01, for which Respondent was sentenced to five (5) years probation and ordered to pay restitution in the amount of \$68,312.74.
4. Respondent testified at the hearing before the Board that while a person at his practice billed under his name, he accepts full responsibility for such billing and that in the future he will safeguard against this so that it does not happen again. Respondent further testified that there were no patient care issues or harm to patients in this case and that he has other duties as a professional pilot for which he is responsible.

CONCLUSIONS OF LAW

5. This Board has jurisdiction over this proceeding pursuant to § 334.103.1, RSMo, which provides:

A license issued under this chapter by the Missouri State Board of Registration for the Healing Arts shall be automatically revoked at such time as the final trial proceedings are concluded whereby a licensee has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony criminal prosecution under the laws of the state of Missouri, the laws of any other state, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of their profession, or for any felony offense involving fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, or, upon the final and unconditional revocation of the license to practice their profession in another state or territory upon grounds for which revocation is authorized in this state following a review of the record of the proceedings and upon a formal motion of the state board of registration for the healing arts. The license of any such licensee shall be automatically reinstated if the conviction or the revocation is ultimately set aside upon final appeal in any court of competent jurisdiction.

6. The Board is authorized to impose a time period during which a revoked licensee may not seek reinstatement with the Board, as set forth in § 334.100, RSMo, which provides, in pertinent part:

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period[.]

7. The crime to which Respondent pled guilty and was convicted, Conspiracy to Commit Health Care Fraud and Making False Statements in Relation to Health Care Matters, is reasonably related to the qualifications, functions or duties of Respondent's profession and involves moral turpitude requiring automatic revocation of Respondent's license as a physician under § 334.103.1, RSMo.

8. The Board has determined that this order is necessary to ensure the protection of the public.

DISCIPLINARY ORDER

Having fully considered all evidence before this Board, it is the ORDER of the Board that Dr. Terry Gardner's license as a physician, license number 2009015805, be REVOKED. It is further ordered that Dr. Gardner shall immediately return all evidence of licensure to the Board and that Dr. Gardner shall not apply for reinstatement of his license for a period of three (3) years.

EFFECTIVE THIS 22 DAY OF MAY, 2012.


Tina Steinman, Executive Director